

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 454
LICENSURE OF RETAIL ELECTRIC AGENTS, BROKERS AND CONSULTANTS

Section

454.10	Purpose
454.20	Definitions
454.30	Applicability
454.40	Required Application Filings and Procedures
454.50	General Licensing Requirements
454.60	Managerial Licensing Requirements
454.70	Technical Licensing Requirements
454.80	Financial Licensing Requirements
454.90	Code of Conduct
454.100	Customer Records and Information
454.110	Reporting Requirements
454.120	Erroneous or Defective Reports
454.130	Complaint Procedures
454.140	Commission Oversight

AUTHORITY: Implementing Section 16-115C of the Public Utilities Act [220 ILCS 5/16-115C] and authorized by Sections 16-115C and 10-101 of the Public Utilities Act [220 ILCS 5/16-115C and 10-101].

SOURCE: Adopted at 33 Ill. Reg. 14466, effective November 1, 2009; amended at 35 Ill. Reg. _____, effective _____.

Section 454.30 Applicability

- a) The requirements of this Section shall apply to each ABC that:
 - 1) sells or attempts to sell electric power and energy on behalf of a RES; and/or
 - 2) procures or attempts to procure electric power and energy on behalf of a retail customer.
- b) The requirements of this Section shall not apply to the following:
 - 1) The Illinois Power Agency or any of its employees;
 - 24) Any RES offering retail electric service on its own behalf;

- ~~32~~) Any person or entity acting exclusively on behalf of a single RES on condition that exclusivity is disclosed to the customer;
- ~~4~~) Any person acting exclusively on behalf of a retail electric supplier on condition that exclusivity is disclosed to the customer;
- ~~53~~) Any person or entity representing a municipal power agency, as defined in Section 11-119.1-3 of the Illinois Municipal Code [65 ILCS 5/11-119.1-3];
- ~~64~~) Any person or entity that attempts to procure retail electric service on behalf of, or sell retail electric service to, a third party that has an aggregate billing demand of all of its affiliated electric service accounts in Illinois of greater than 1,500 kW;
- ~~75~~) A retail customer that operates or manages, either directly or indirectly, any facilities, equipment or property used or contemplated to be used to distribute electric power or energy if that retail customer is a political subdivision or public institution of higher education of this State; or
- ~~86~~) Any corporation, company, limited liability company, association, joint-stock company or association, firm, partnership or individual, or their lessees, trusts or receivers appointed by any court whatsoever that are owned or controlled by the political subdivision, or public institution of higher education, or are operated by any of its lessees or operating agents.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.90 Code of Conduct

Any person or entity required to be licensed pursuant to this Part shall:

- a) Disclose in plain language in writing the nature of the services offered by the ABC;
- ~~b)~~ Prior to the customer signing a contract, disclose that they are not employed by the electric utility operating in the applicable service territory;
- ~~c)~~ Disclose in plain language in writing to all persons it solicits:
 - ~~1)~~ before July, 2011, the total anticipated remuneration to be paid to it by any third party over the period of the proposed underlying customer contract and
 - ~~2)~~ on or after July 1, 2011, the total price per kilowatt-hour, and the total anticipated cost, inclusive of all fees or commissions received by the

licensee, to be paid by the customer over the period of the proposed underlying customer contract.

Any such disclosure must be made prior to entering into the contract and signed by the customer;

- d) Disclose if applicable, to all customers, prior to the customer signing a contract the fact that they will be receiving compensation from the supplier;
- ee) Not hold itself out as independent or unaffiliated with any RES, or both, or use words calculated to give that impression, unless the person or entity offering service under Section 16-115C of the Act has no contractual relationship with any RES or its affiliates regarding retail electric service in Illinois;
- fd) Not utilize false, misleading, materially inaccurate, defamatory or otherwise deceptive language or materials in the soliciting or providing of its services;
- ge) Maintain copies of all marketing materials disseminated to third parties for a period of not less than three years;
- hf) Maintain copies of all disclosure statements required in subsections (a) and (b) for a period of not less than three years;
- i g) *Not present electricity pricing information in a manner that favors one supplier over another, unless a valid pricing comparison is made utilizing all relevant costs and terms; and*
- j h) Comply with the requirements of Sections 2EE, 2FF, 2GG and 2HH of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505/2EE, 2FF, 2GG and 2HH].

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.110 Reporting Requirements

- a) By March 31 of each year, each licensee shall submit a report identified with the name of the ABC as it appears in the most recent Commission order granting the ABC a license and shall be titled "ABC Annual (year) Recertification Report under 83 Ill. Adm. Code 454". All reports required under this Section shall be under oath and shall be filed with the Chief Clerk of the Commission with copies to the Director of the Commission's Energy Division, the Director of the Financial Analysis Division, and the Director of the Consumer Services Division.
- b) The annual report required by subsection (a) of this Section shall list each RES the licensee had any contractual relationship with during the prior calendar year, and shall contain the following information:

- 1) The type of contractual relationship (such as subcontractor, affiliate, commission compensated);
 - 2) The number of non-residential customers to which the licensee sold retail electric supply on behalf of each RES;
 - 3) The number of residential customers to whom the licensee sold retail electric supply on behalf of each RES;
 - 4) The number of non-residential customers for which the licensee procured retail electric service on behalf of the customer; and
 - 5) The number of residential customers on whose behalf the licensee procured retail electric service.
- c) The verified report under this Section shall not contain customer identifying information.
- d) A public redacted version of the verified report may be submitted to the Commission along with a proprietary version. The public redacted version may redact from the verified report the name or names of every certified electricity supplier contained in the report to protect against disclosure of competitively sensitive market share information. The information shall be afforded proprietary treatment for two years after the date of the filing of the verified report. The licensee shall file with its annual verified report a copy of its verified financial statement for the previous fiscal period.
- e) The licensee shall file with its annual verified report a verified statement of any changes to the original licensure qualifications and notice of continuing compliance with all requirements.

(Source: Amended at 35 Ill. Reg. _____, effective _____)

Section 454.140 Commission Oversight

- a) Upon complaint or on the Commission's own motion, the Commission may conduct an investigation of a licensee's actions under any Section of this Part. The Commission's findings of a violation of this Section after notice and hearing shall result in a progressive disciplinary scale as specified in Section 16-115C(g) of the Act.
- b) *For a first violation, the Commission may, in its discretion, shall suspend the license of the licensee so disciplined for a period of no less than one month. In determining the length of the suspension to be imposed the Commission shall consider, whether the violation was deliberate or inadvertent, the harm or*

potential for harm to customers, and the effect or potential effect on competition.
For a second violation within a 5-year period, the Commission shall suspend the license of the disciplined licensee for a period of not less than 6 months. For a third or subsequent violation within a 5-year period, the Commission shall suspend the license of the disciplined licensee for a period of not less than 2 years. [220 ILCS 5/16-115C(g)]

(Source: Amended at 35 Ill. Reg. _____, effective _____)